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Equal Employment Opportunity Commission, Plaintiff, Sretta Reese, Bonnie Centers, Fran Howard, & Melinda Cochran, Intervening Plaintiffs, v. Physician's Services, P.S.C., Defendant.

Judge Joseph M. Hood

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Equal Employment Opportunity Commission, Plaintiff, Sretta Reese, Bonnie Centers, Fran Howard, & Melinda Cochran, Intervening Plaintiffs, v. Physician's Services, P.S.C., Defendant.

Keywords

Equal Employment Opportunity Commission, Sretta Reese, Bonnie Centers, Fran Howard, Melinda Cochran, Physician's Services, P.S.C., 5:05-cv-00393-JMH, Consent decree / Settlement, Disparate Treatment, Hostile Work Environment, Retaliation, Termination, Healthcare, Employment Law, ADAAA

Eastern District of Kentucky
FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION**

JAN 24 2007

AT LEXINGTON
LESLIE G. WHITMER
CLERK U.S. DISTRICT COURT

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
SRETTA REESE, BONNIE CENTERS,)
FRAN HOWARD, & MELINDA COCHRAN)
)
Intervening Plaintiffs,)
)
v.)
)
PHYSICIAN'S SERVICES, P.S.C.)
)
)
Defendant.)

**CIVIL ACTION NO.
5:05-393-JMH**

CONSENT DECREE

The United States Equal Employment Opportunity Commission (the "Commission") commenced this action against Physician Services, P.S.C. ("PSP"), pursuant to Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 in order to correct PSP's alleged unlawful employment practices on the basis of sex, disability and retaliation, and to provide appropriate relief to Melinda Cochran, Bonnie Centers, Fran Howard, and Sretta Reese. This action was instituted and authorized pursuant to §§107(a) and 503 (a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12117(a) and 12203(a), and §§ 704(a) and 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-3(a) and 2000e-5(f)(1) and (3) ("Title VII"), and § 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

The Commission and PSP stipulate to the Court's jurisdiction over the parties. The intervening Plaintiffs, Melinda Cochran, Bonnie Centers, Fran Howard, and Sretta Reese previously entered into separate settlement and confidentiality agreements with Defendant PSP. The EEOC is not a party to those settlement agreements and as a federal governmental agency has not agreed to confidentiality in this matter. Further, the Commission and PSP desire to resolve Civil Action No. 5:05-393-JMH without the burden and expense of further litigation. As a result, and based on the pleadings and the record as a whole, the Court finds that: [i] the Court has jurisdiction over the parties and the subject matter of this action; and [ii] the purpose and provisions of the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991 will be promoted and effectuated by the entry of this Decree, and (iii) this Consent Decree resolves all matters and claims

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED as follows:

1. PSP denies any wrongdoing on the basis of any of the allegations set forth in the underlying charge of discrimination filed with the Commission or on the basis of any of the allegations set forth in the Commission's Complaint.
2. PSP agrees that it and all of its officers, directors, employees, agents, shareholders, members, representatives and any affiliated entity will not discriminate against nor harass any PSP employee on the basis of their sex or disability.
3. PSP agrees that there will be no discrimination or retaliation of any kind against any person because of opposition to any practice made unlawful under the Americans with Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991, or because of the filing of a charge, the giving of testimony, assistance, or participation in any manner in an investigation, proceeding or hearing under the Americans with

Disabilities Act of 1990, Title VII of the Civil Rights Act of 1964 and Title 1 of the Civil Rights Act of 1991.

4. The term of this Decree shall be for thirty six months (36) months from the date of the execution of this Consent Decree.

5. PSP agrees to submit periodic reports to the Commission detailing its compliance with this Decree. PSP agrees to submit six (6) semi-annual reports during the term of this Decree. The first report shall be due seven (7) months after the execution of this decree, and the subsequent reports shall be mailed to the Commission no later than the final day of the month of each sixth month after the preceding report and continuing throughout the term of years covered by the Decree.

a. Each semi-annual report shall include the following information for the six (6) month period preceding the report: [i] the name, home address, and home telephone number of any PSP employee filing an internal or external complaint or grievance alleging sexual or disability harassment or discrimination, or retaliation; and [ii] the nature of the complaint and the corrective action taken.

b. All reports shall be directed to Laurie A. Young (or her successor), Regional Attorney, Equal Employment Opportunity Commission, Indianapolis District Office, 101 West Ohio St., Suite 1900, Indianapolis, Indiana 46204-4203.

6. Within ninety (90) days of the date of execution of this Decree, PSP shall provide a training program to all of its employees regarding the provisions of the Americans with Disabilities Act of 1990 and Title VII of the Civil Rights Act as they pertains to sex and disability discrimination in the work place. This training program shall include an explanation of the prohibition against retaliation for those employees reporting sex or disability discrimination.

Thirty (30) days before the training, PSP shall provide: [i] notice to the Commission of the date, time, and place of the training; [ii] shall send to the Commission a copy of the training program and all written materials, if any, to be used; and [iii] shall provide the Commission with a roster of all employees who will receive the training. The Commission may provide reasonable input on the content of the training but shall do so no later than ten (10) days prior to the training.

Upon completion of the training, PSP shall certify to the Commission the specific training that was undertaken and shall provide the Commission with a roster of all employees who received the training. All reports shall be sent to the attention of Laurie A. Young, Regional Attorney, at the address specified in paragraph 7b.

7. PSP agrees that the EEOC may review compliance with this Decree. As part of such review and after making reasonable arrangements, the EEOC may: inspect PSP's premises; interview its employees with management employee interviews conducted in the presence of an authorized company representative or PSP's counsel; and examine and copy pertinent documents.

8. In the event that the EEOC determines that a violation of this Decree has occurred, it will, prior to exercising any remedy provided by law, provide written notice to PSP and its attorney specifically identifying the alleged violation(s). PSP will have thirty (30) days or any additional period which may be agreed to by the parties in which to investigate and respond to the allegation. Thereafter, the parties will have a period of thirty (30) days, or any such additional period as may be agreed upon by them, in which to negotiate and confer regarding such allegation before the Commission exercises any remedy provided by law.

9. PSP shall post the Notice attached hereto as Appendix A. The Notice shall be placed within a conspicuous area where it shall be visible to all employees.

10. The Commission and PSP shall each bear its own costs and attorney fees.

11. **RETENTION OF JURISDICTION BY COURT:** The Court will retain jurisdiction of this cause throughout the duration of this Decree for purposes of monitoring compliance with this Decree and entry of such further orders as may be necessary or appropriate.

SO ORDERED:

1/24/07
Date

Joseph M. Hood
Judge, United States District Court

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EMPLOYEE NOTICE

**Posted Pursuant to an Agreement with the
U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Louisville Area Office**

NOTICE OF NON-DISCRIMINATION POLICY

This Notice is being distributed and posted by agreement between Physician Services, P.S.C. ("PSP") and the United States Equal Employment Opportunity Commission (EEOC) in a case resulting from a charge alleging sex and disability discrimination and retaliation.

Federal law requires that there be no discrimination nor harassment against any employee or applicant for employment because of the employee's race, color, religion, sex, national origin, age (over 40), disability or pregnancy status.

Federal law also prohibits employers from discriminating against employees on the basis of gender in all aspects of employment, including, but not limited to, hiring, promotion, discharge, pay, job training and fringe benefits.

PSP supports and will comply with such Federal law in all respects and will not take any actions against employees because they have exercised their rights, reported an alleged violation under the law, or have given testimony, assisted or participated in any investigation, proceeding or hearing conducted by the U. S. Equal Employment Opportunity Commission.

An employee has the right, and is encouraged to exercise that right, to report allegations of employment discrimination in the workplace. An employee may contact the U. S. Equal Employment Opportunity Commission for the purpose of filing a charge of employment discrimination.

**Questions concerning this notice may be addressed to:
Equal Employment Opportunity Commission
101 W. Ohio St., Suite 1900
Indianapolis, Indiana 46204-4203
Telephone: (317) 226-7212
EEOC 800 # 1-800-669-4000
TDD (317) 226-4162**